



30 DEC 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

#8

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Louis S. Sorell
Baker Botts LLP
30 Rockefeller Plaza, 44th Floor
New York, NY 10112

In re Application of :
BLACH VIZOSO, Ricardo et al. :
Application No.: 10/048,140 :
PCT No.: PCT/ES99/00279 :
Int. Filing Date: 27 August 1999 :
Priority Date: 22 July 1999 :
Attorney's Docket No.: A34963-PCT-USA :
For: POLYMER MEMBRANE FOR THE :
SEPARATION OF GAS MIXTURE :

DECISION

ON REQUEST UNDER

37 CFR 1.497(d)

This is a decision on "Petition For Correction of Inventorship Pursuant to 37 C.F.R. §1.497(d)," filed on 16 August 2002, which is being treated as a request under 37 CFR 1.497(d).

BACKGROUND

On 27 August 1999, applicant filed international application PCT/ES99/00279, which claimed a priority date of 22 July 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 01 February 2000. On 22 February 2001, applicant filed a demand for international preliminary examination which elected the United States, prior to nineteen months from the priority date. The deadline for entry into the national stage in the United States was midnight on 22 January 2002.

On 22 January 2002, applicant filed a submission for entry into the national stage in the United States, accompanied by, *inter alia*, the U.S. Basic National Fee.

On 10 April 2002, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 16 August 2002, applicant filed a declaration and a "Petition For Correction of Inventorship Pursuant to 37 CFR §1.497(d)".

DISCUSSION

The inventors in the international application are Ricardo Blach Vizoso, Alexander Kotenko, Dimitri Amirkhanov, Mikhail Tulsy and Vladimir Fateev. Applicants file this request to remove the names of Alexander Kotenko, Dimitri Amirkhanov, Mikhail Tulsy and Vladimir Fateev as inventors.

A request under 37 CFR 1.497(d) requires: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in §1.17(i); and (3) the written consent of the assignee, if an original named inventor has executed an assignment.

Items (1) and (2) have been met. (1) Applicants have provided statements from each person being deleted as an inventor, that any error in inventorship occurred without deceptive intention on his or her part. (2) The processing fee set forth in §1.17(i) has been paid.

As to item (3), the consent of assignee is signed by "designated representative officer". This title does not provide apparent authority to bind the assignee and the officer does not certify that he has power to bind the assignee. Additionally, applicants have not established that David Systems Technology, S.L. is the assignee of the application. Though the Certificate Under 37 CFR 3.73(b) states that an assignment is appended, a review of the file does not reveal a copy of the assignment.

CONCLUSION

For the above reasons, applicant's request under 37 CFR 1.497(d) is **REFUSED**.

If reconsideration on the merits of this request is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.497(d)". No additional processing fee is required.

Please direct any further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Office of PCT Legal Administration..



Boris Milef
PCT Legal Examiner
PCT Legal Administration



Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459